

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 4 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

)
Amendment of Part 97 of the
Commission's Rules to Modify
Eligibility Requirements for
Club Station Licenses in the
Amateur Radio Service)

RM- _____

To: The Chief, Private Radio Bureau

PETITION FOR RULE MAKING

The American Radio Relay League, Incorporated (the League), the national non-profit association of amateur radio operators in the United States, by counsel and pursuant to Section 1.401 of the Commission's rules (47 C.F.R §1.401), hereby respectfully requests that the Commission issue a Notice of Proposed Rule Making at an early date looking toward the amendment of Section 97.5(d)(2) of the Commission's Rules (47 C.F.R. §97.5(d)(2)) to more appropriately determine eligibility to hold an amateur club station license. As good cause for the issuance of such a Notice, the League states as follows:

I. Background

1. The Commission, prior to 1980, issued club, RACES and military recreation station licenses in the Amateur Radio Service. These licenses required separate applications, and an illustration that the entities applying were in fact bona fide. Sections 97.3 and 97.39 of the rules, as stated in 1975 and previously, required

that an applicant for a club station license file with that application copies of the constitution and bylaws of the organization for Commission review, at the time he or she filed the FCC Form 610-B application on behalf of the club. This insured that the club was a bona fide entity, and not merely the alter-ego of two individuals who wished to use an alternative call sign.

2. In 1976, the Commission, by Order, 57 FCC 2d 1083 (1976), deleted the requirement that the constitution and bylaws of an amateur club be included in the application for a club license, holding that no useful purpose was being served by the submission requirement. The Commission stated, however, that:

Amateur club station applicants must, of course, be bona fide amateur organizations as set forth in Section 97.39 of our Rules. Thus, to assure that all amateur club applicants are fully aware of the criteria for an amateur club, we are hereby amending the definition of amateur club station in Section 97.3 of the Rules and amending Section 97.39 accordingly.

57 FCC 2d at 1083.

Section 97.3, pursuant to that Order, was amended to define an amateur club station as follows:

(h) Club Station. A separate amateur radio station licensed to an Amateur radio operator acting as a station trustee for a bona fide amateur radio organization or society. A bona fide amateur radio organization or society shall be composed of at least two persons, one of whom must be a licensed amateur operator, and shall have:

- (1) a name;
- (2) an instrument of organization (e.g. constitution)
- (3) management, and
- (4) a primary purpose which is devoted to Amateur radio activities consistent with §97.1 and constituting the major portion of the club's activities.

The two-person requirement was thus a holdover from a time when the constitution and bylaws of the organization were subject to submission by the applicant and scrutiny by the Commission.

3. The situation changed in 1980, in Docket 21135. Therein, in a Notice of Proposed Rule Making, the Commission proposed to eliminate all station licenses in the Amateur Service, save for primary and space station licenses. Among the categories of license proposed for elimination were club station licenses. This proposal was firmly opposed by amateurs, resulting in a Further Notice of Proposed Rule Making in February of 1978. The Further Notice suggested that the Commission might continue to license club, military recreation and RACES stations in a more efficient manner, and proposed to limit the call signs to WK, WM and WC prefixes. Eligibility for club licensing was to be severely limited; it would have required new and existing licensees to demonstrate a "compelling need" for such licenses. and the trustee concept for licensing was proposed to be eliminated. The comments on this proposal were not favorable to any greater extent than they were in response to the initial Notice. Thus, in its Third Report and Order, FCC 80-285, 47 RR 2d 911 (1980), the Commission relented somewhat from either of its Notice proposals in that proceeding, and decided to provide that only applications for modification and/or renewal of existing club station licenses would be processed by the Commission. Clubs thereafter could have stations, but they would not have separate licenses. Rather, they would have to use the call sign of the trustee of the club station.

4. With the elimination of the issuance of new club licenses, there was not as much concern about the definition of amateur radio clubs for purposes of holding a license as there otherwise might have been. The League, however, in a Petition for Rule Making (RM-7243) filed in 1990, seeking miscellaneous changes to the Amateur Service Rules as a followup to the Part 97 revisions undertaken in Docket 88-139, requested that the Commission modify the criteria for holding a club license, as the two-person requirement was facially insufficient to insure that a particular group of amateurs was a bona fide club. The Commission considered this request, and several other miscellaneous rule change proposals contained in RM-7243 and in other petitions, in a consolidated rule making proceeding, Docket 90-561. In the Notice of Proposed Rule Making¹ in that proceeding, however, the Commission refused to propose the change in the eligibility requirement for club licensing requested by the League. It's justification was as follows:

4. Club membership. The ARRL requests that Section 97.5 of the Commission's Rules, 47 C.F.R. §97.5, be amended to increase to at least four the minimum number of members needed for the purpose of holding a club station license. The ARRL states that if the issuance of new club station licenses is ever resumed, the present two-person requirement would invite applications from parties that are not clubs. No new station licenses, however, have been issued in nearly thirteen years and at this time we do not foresee that we will resume doing so. To increase the number of required club members, moreover, could deny license renewal and modification to some of the existing 2,065 club stations. No change, therefore, is proposed herein.

5 FCC Rcd. at 7658.

¹ FCC 90-370, 5 FCC Rcd. 7658 (1990).

5. The Commission has, since then, proposed to amend its rules to provide for the resumption of club and military recreation station licensing and the assignment of new call signs to clubs. Order, 8 FCC Rcd. 3594 (1993); vacated by Memorandum Opinion and Order, 8 FCC Rcd. 103 (FCC 93-546, released December 29, 1993). The current proposal, in a Notice of Proposed Rule Making, 8 FCC Rcd. 105, (FCC 93-545, released December 29, 1993) is for the Commission to resume the issuance club and military recreation station licenses and call signs itself in the context of a vanity call sign proposal. According to the Notice, the Commission intends to assign call signs to amateur clubs, upon application. Therefore, the bona fides of clubs, and the means of determining such for purposes of entitlement to a club license, is now once again an important consideration.

II. The Minimum Number of Members of a Club Should Be Increased

6. The Commission no longer reviews club organizational documents to determine eligibility, nor any demonstration of the existence of the documents which are required pursuant to current Section 97.5(d)(2) of the Rules. Nor is there any definition of the "management" required for club identity or the nature of the organizational documents required to be maintained by the applicant. Thus, it is perfectly possible for, as an example, a husband and wife, desiring an alternative call sign, to prepare a minimal organizational document, declare between them a management structure, and declare themselves an amateur club and apply for a license. The minimum qualifications are simply insufficient to

distinguish a bona fide amateur club, which should be encouraged and provided the identity of a separate license and call sign, from two individuals who simply wish to obtain a distinctive alternate call sign but who do not function as, nor maintain the indicia of, a normal amateur radio club.

7. It is not practical perhaps for the Commission to resume the requirement of submission of organizational documents with FCC form 610-B, nor for the Commission to scrutinize such documents. However, the two-person minimum requirement was adopted at a time when such a requirement was in effect. Essentially by definition, however, if the operative basic qualification for club licensing and entitlement to a club station call sign is a minimum number of persons, that number should be substantive. The League believes that it is not unreasonable to require that at least four persons associate themselves together in order to constitute a club for licensing and call sign purposes. To have only three or two persons associated together as a club makes the "management" requirement difficult to conceptualize. Nor is it likely that a two- or three-person entity would have the functional indicia of a club sufficient to justify the creation of a separate identity for that purpose.²

² The Commission, in 1990, expressed concern that an increase in the minimum number of members for club status might disenfranchise clubs that are currently licensed. The League does not believe, based on its own experience with bona fide affiliated clubs, that such is the case. Notwithstanding, the Commission could remedy that by declaring that after the effective date of the proposed rule change, applications for new, modified or renewed club licenses and call signs must meet the minimum membership requirement. Any clubs which have fewer than four members would

8. The League has a good deal of experience with the makeup of amateur radio clubs as the result of its longstanding club affiliation program. The League has, currently affiliated, 1,957 amateur clubs. Typically, a new amateur radio club will be formed, and may at the outset have as few as four members, though usually, after the first year of operation, the size of such a club will increase substantially. Rarely does a club, even a new club, apply for affiliation with fewer than four members to start with. Of the almost two thousand League-affiliated amateur clubs, only one active club has one member; two active clubs have two members; and only seven clubs have three members. All the rest have more members than that, usually far more. Even in the rare case where a club begins with two or three persons, it is not a significant burden to cause that club to wait a short while until it has a reasonable minimum number of members in order to qualify it for a club station license and distinctive call sign.

9. The League therefore suggests that, with the reinstitution of special club licensing and distinctive call sign issuance by the Commission proposed in Docket 93-305, it is timely that the Commission visit the definition of an amateur club for licensing purposes. The minimum number of persons that make up a functional amateur club as a practical matter is at least four, and since the minimum number is the operative definitional factor in license application processing, the Commission should increase that minimum

then have a reasonable amount of time to increase membership to meet the minimum eligibility requirement.


eligibility requirement from two to four. The same is proposed herein.

Therefore, the foregoing considered, the American Radio Relay League, Incorporated respectfully requests that the Commission issue a notice of proposed rule making at an early date, proposing to amend Section 97.5(d)(2) in accordance with the attached appendix, to increase the minimum number of required members for an amateur club for separate licensing and call sign purposes, from two to four.

Respectfully submitted,

**THE AMERICAN RADIO RELAY
LEAGUE, INCORPORATED**

By


Christopher D. Inlay
Its General Counsel

BOOTH, FRERET & IMLAY
1233 20th Street, N. W.
Suite 204
Washington, D. C. 20036
(202) 296-9100

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APPENDIX

1. Section 97.5(d)(2) is amended to read as follows:

(d) The types of written authorizations that permit amateur station operation where the amateur service is regulated by the FCC are:

(2) A club station license (FCC Form 660) issued to the person by the FCC. A club station license is issued only to the person who is the license trustee designated by an officer of the club. The trustee must hold an FCC-issued Amateur Extra, Advanced, General or Technician operator license. The club must be composed of at least four persons and must have a name, a document of organization, management and a primary purpose devoted to amateur service activities consistent with this Part.